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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF OREGON
5 PORTLAND DIVISION
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9 C6 CAPITAL FUNDING, LLC, a Utah limited
10 liability company,

11 Plaintiff,

12 v.

13 KELVIN B. SCRIBNER and LYNETTE J.
14 SCRIBNER, husband and wife, Washington
residents,

15 Defendants.
16

No. 3:19-cv-01874-MO

**STIPULATION AND PRELIMINARY
INJUNCTION ORDER**

17
18 **STIPULATION**

19 Plaintiff C6 Capital Funding, LLC (“C6 Capital”) and Defendants Kelvin and Lynette
20 Scribner stipulate as follows:

21 A. Defendants own real property in Hood River, Oregon commonly known
22 as 1280 Alameda Road, Hood River, Oregon 97031 (the “Real Property”), which is
23 legally described on Appendix A of this Order. Defendant Kelvin Scribner represents
24 he qualifies for an Oregon homestead exemption for the Real Property.

25 B. Defendants seek to sell the Real Property to Bill & Jill Gray 2016 Trust
26 or its assigns (“Buyer”) for approximately \$1,500,000.00 (such sale, the “Sale”).
27 Defendants believe that after payment of encumbrances against the Real Property and
28 closing costs, there will be approximately \$20,000 in remaining proceeds from the Sale.

1 This Stipulation provides the terms under which C6 consents to the Sale and the
2 distribution of its proceeds.

3 **ORDER**

4 1. Defendants are authorized to sell the Real Property, and must distribute
5 the Sale proceeds at closing through escrow in the following order:

- 6
7 a. To First Interstate Bank to pay for any Deeds of Trust recorded against the
8 Real Property for which First Interstate Bank is a beneficiary;
9 b. To tax encumbrances against the Real Property, if any;
10 c. To customary sale and closing costs;
11 d. To Defendants in an amount of no more than \$40,000;
12 e. The remaining proceeds, if any, to C6.


13 2. Other than the Sale, Defendants shall not transfer any interest in the Real
14 Property by sale, lease, assignment, encumbrance, pledge, grant of security interest, or
15 other disposition (collectively, a "Transfer") unless there is (i) a further Order of this
16 Court authorizing the Transfer; (ii) Defendants obtain written consent of Plaintiff's
17 counsel to a Transfer; or (iii) the Transfer pays in full all encumbrances identified in
18 Paragraph 1(a) and 1(b) above and sale proceeds are distributed as identified in
19 Paragraph 1.

20 3. Defendants shall not impair the value of the Real Property either by acts
21 of destruction or by failure to care for the Real Property in a reasonable manner.

22 4. This Order shall remain effective until further Order of this Court or until
23 dismissal of this action, whichever comes first.

24 IT IS SO ORDERED.

25 THIS 10th DAY OF December, 2019.

26 
27 MICHAEL W. MOSMAN
28 Chief United States District Judge

Appendix A

Real Property Legal Description

Commencing at an iron bar set in the ground at a point on the line between the land formerly owned by Lee Morse and what was formerly the land of John Sipma, and which bar and point of beginning is situated 20.83 chains North and 10 chains, more or less, East of the quarter section corner on the South boundary of Section 3, Township 2 North of Range 10 East of the Willamette Meridian, in the County of Hood River and State of Oregon; thence running North along the line between the East and West halves of the Northwest quarter of the Southeast quarter of said Section, being the line between the lands formerly owned by said Lee Morse and the lands formerly owned by the John Sipma, 9.47 chains, more or less, to the South side of a 20 foot road heretofore dedicated for the use of the owners of what is known as the John Sipma tract; thence running West along the South line of said road 20.80 chains, more or less, to the Northeast corner of what was formerly known as I.C. Nealeigh's land; thence running South along the said I.C. Nealeigh's East line 9.47 chains, more or less, to the Northwest corner of the lands formerly owned by Jane Bishop; thence running East along the North line of said Jane Bishop land and the lands formerly owned by A.J. Emerson, 20.80 chains, more or less, to the iron bar and point of beginning.

TOGETHER WITH The following described tracts of land as described in Bargain and Sale Deed recorded February 4, 2009, as Microfilm No. 200900389, Records of Hood River County, Oregon;

Tract 1

That portion of Parcel 3 of those tracts conveyed to Alpha to Omega, LLC by deed recorded February 27, 2004, as Instrument No. 20040775, Hood River Deed Records, that lies Southerly of the following described line: Beginning at a brass disc found at the South quarter corner of Section 3, Township 2 North, Range 10 East of the Willamette Meridian, in the County of Hood River and State of Oregon; thence North 01°24'34" East, a distance of 2656.33 feet to an iron pipe found at the Center quarter corner of said Section 3; thence South 01°24'27" West, a distance of 644.08 feet to a ½ inch iron rod with yellow cap marked "WYEAST LS 2393" and the true point of beginning; thence South 89°44'03" East, a distance of 630.37 feet to a similar iron rod; thence continuing South 89°44'03" East, a distance of 30.01 feet to the East line of the West half of the West half of the Southeast quarter of said Section 3.

Tract 2

That portion of Parcel 1 of those tracts conveyed to Alpha to Omega, LLC by deed recorded February 27, 2004, as Instrument No. 20040775, Hood River Deed Records, that lies Southerly of the following described line: Beginning at a brass disc found at the South quarter corner of Section 3, Township 2 North,

1 Range 10 East of the Willamette Meridian, in the County of Hood River and
2 State of Oregon; thence North 01°24'34" East, a distance of 2656.33 feet to an
3 iron pipe found at the Center quarter corner of said Section 3; thence South
4 28°16'12" West, a distance of 729.67 feet to a ½ inch iron rod with yellow cap
5 marked "WYEAST LS 2393" and the rue point of beginning; thence South
6 89°47'01" East a distance of 329.77 feet to a similar iron rod.

7 Tract 3

8 That portion of Parcel 2 of those tracts conveyed to Alpha to Omega, LLC by
9 deed recorded February 27, 2004, as Instrument No. 20040775, Hood River
10 Deed Records, that lies Southerly of the following described line: Beginning at
11 a brass disc found at the South quarter corner of Section 3, Township 2 North,
12 Range 10 East of the Willamette Meridian, in the County of Hood River and
13 State of Oregon; thence North 01°24'34" East, a distance of 2656.33 feet to an
14 iron pipe found at the Center quarter corner of said Section 3; thence South
15 28°16'12" West, a distance of 729.67 feet to a ½ inch iron rod with yellow cap
16 marker "WYEAST LS 2393" and the true point of beginning; thence North
17 89°47'01" West, a distance of 329.33 feet to a similar iron rod.

18 Parcel 2:

19 Beginning at the South one-quarter corner of Section 3, Township 2 North,
20 Range 10 East of the Willamette Meridian, in the County of Hood River and
21 State of Oregon; thence East along the South line of said Section 3, a distance
22 of 333.3 feet of the Southwest corner of that tract of land conveyed to Warren
23 E. Davenport et ux., by deed recorded in Book lettered L at page 187, Deed
24 Records Hood River County; thence North 1° East along the West line of said
25 Davenport tract of land 1,350 feet to the North line of that tract of land conveyed
26 to A. J. Emerson by deed from John Sipma, recorded in Book lettered I at page
27 273, Deed Records Hood River County, for the point of beginning of the land
28 herein conveyed; thence West along the North line of said Emerson tract of land
722 feet to the Northeast corner of that tract of land conveyed to Jane A. Bishop,
by deed recorded in Book lettered F at page 533, Deed Records Hood River
County; thence South 1°02' West along the East line of said Bishop tract of land
225 feet to the center of Indian Creek; thence Easterly along the center of said
Indian Creek to a point in the West line of the aforesaid Davenport tract of land
from which the above point of beginning of the tract herein conveyed bears
North 1° East; thence North 1° East along the West line of said Davenport tract
of land a distance of 312 feet to the point of beginning.

Parcel 3:

All that portion of the following described tract lying Easterly of the center line
of the Farmers Irrigating Company Ditch:

Beginning at a point in the West line of the East half of the Southwest quarter of
Section 3, Township 2 North, Range 10 East of the Willamette Meridian, in the
County of Hood River and State of Oregon, that is 680 feet South of the

1 Northwest corner of the East half of the Southwest quarter of said Section 3,
2 which point of beginning is 20 feet South of the Southwest corner of that tract
3 of land conveyed to J.P. Barnet et ux., by deed recorded February 25, 1902, in
4 Book 33 at page 324, Deed Records Wasco County (Book lettered I at page 598,
5 Deed Records Hood River County) and at which said Barnet corner was set a
6 rock marked with an "X" on its Southwest face; thence East parallel with and 20
7 feet South of the South line of said Barnet tract of land a distance of 607.2 feet
8 to the West line of that tract of land conveyed to Christian D. Nickelsen by deed
9 recorded November 15, 1902, in Book 35 at page 1, Deed Records Wasco
10 County (Book lettered J at page 72, Deed Records Hood River County); thence
11 South parallel with the West line of the East half of the Southwest quarter of
12 said Section 3, being along the West line of said Nickelsen tract of land, a
13 distance of 625 feet, more or less; to the Northeast corner of that tract of land
14 conveyed to Harry D. Steele by deed recorded May 4, 1906, in Book 41, at page
15 595, Deed Records Wasco County (Book lettered H at page 313 Deed Records
16 Hood River County); thence West along the North line of said Steele tract of
17 land a distance of 607.2 feet to the West line of the East half of the Southwest
18 quarter of said Section 3; thence North along the West line of the East half of
19 the Southwest quarter of said Section 3 a distance of 625 feet, more or less, to
20 the place of beginning.
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